

CHAPTER 173–180D WAC

FACILITY OIL SPILL PREVENTION PLAN STANDARDS

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WAC

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WAC 173–180D–010 Purpose. The purpose of this chapter is to establish onshore and offshore facility oil spill prevention plan requirements which, when followed, will:

- (1) Minimize the likelihood that facility oil spills will occur;
- (2) Minimize the size and impacts of those facility oil spills which do occur;
- (3) Facilitate coordination of local, state, regional, tribal, and other prevention and contingency plans;
- (4) Provide improved protection of Washington waters and natural resources from the impacts of oil spills; and
- (5) Emphasize that oil spill prevention is the top priority strategy for protecting Washington waters and natural resources from the impacts of oil spills.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–010, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–020 Authority. RCW 90.56.200, 90.56.300, and 90.56.310 provide statutory authority for the prevention plan preparation and review requirements established by this chapter.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–020, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–030 Definitions.

- (1) “Best achievable protection” means the highest level of protection that can be achieved

through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

- (a) The additional protection provided by the measures;
 - (b) The technological achievability of the measures; and
 - (c) The cost of the measures.
- (2) “Best achievable technology” means the technology that provides the greatest degree of protection, taking into consideration processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.
- (3) “Bulk” means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.
- (4) “Cargo vessel” means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.
- (5) “Department” means the state of Washington department of ecology.
- (6) “Director” means the director of the state of Washington department of ecology.
- (7) “Discharge” means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.
- (8)(a) “Facility” means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that both:
- (i) Transfers oil in bulk to or from a tank vessel or pipeline; and
 - (ii) Is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.
- (b) A facility does not include any:
- (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;
 - (ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;
 - (iii) Motor vehicle motor fuel outlet;
 - (iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or
 - (v) Marine fuel outlet that dispenses three thousand gallons or less of fuel in a single transaction to a ship other than a tank vessel, cargo vessel, or passenger vessel. Marine fuel outlets that dispense more than three thousand gallons of fuel to any vessel in a single transaction do not meet this exemption.
- (9) “Gross ton” means a vessel's approximate volume as defined in Title 46, United States Code of Federal Regulations, Part 69.
- (10) “Marine facility” means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank

vessel.

- (11) “Maximum extent practicable” means the highest level of effectiveness that can be achieved through the use of facility personnel and best achievable technology. In determining what is the maximum extent practicable, the director shall consider, at a minimum, the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.
- (12) “Navigable waters of the state” means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.
- (13) “Offshore facility” means any facility, as defined in subsection (8) of this section, located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.
- (14) “Oil” or “oils” means naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil, including oil-contaminated ballast or bilge water. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.
- (15) “Onshore facility” means any facility, as defined in subsection (8) of this section, any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.
- (16)(a) “Owner or operator” means:
 - (i) In the case of an onshore or offshore facility, any person owning or operating the facility; and
 - (ii) In the case of an abandoned onshore or offshore facility, the person who owned or operated the facility immediately before its abandonment.
- (b) “Operator” does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.
- (17) “Passenger vessel” means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.
- (18) “Person” means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.
- (19) “Pipeline” means, for the purposes of subsection (8)(a)(i) of this section, a pipeline connected to a marine facility, and not owned or operated by the facility referred to in subsection (8)(a) of this section.
- (20) “Plan” means oil spill prevention plan.
- (21) “Ship” means any boat, ship, vessel, barge, or other floating craft of any kind.
- (22) “Spill” means an unauthorized discharge of oil which enters waters of the state.
- (23) “Tank vessel” means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

- (a) Operates on the waters of the state; or
 - (b) Transfers oil in a port or place subject to the jurisdiction of this state.
- (24) “Transporting” means, for the purposes of subsection (8)(b)(i) of this section, the act of moving oil over the highways or rail lines of this state, and the act of transferring oil to or from the rolling stock.
- (25) “Waters of the state” includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–030, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–040 Applicability. Oil spill prevention plans for onshore and offshore facilities must be prepared, submitted, and implemented, pursuant to requirements in this chapter.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–040, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–050 Plan preparation.

- (1) Each onshore and offshore facility shall prepare a plan for prevention of oil spills from the facility into the waters of the state, and for the protection of fisheries and wildlife, other natural resources, and public or private property from oil spills.
- (2) Plans shall be thorough and contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of this chapter.
- (3) *Spill Prevention Countermeasure and Control Plans, Operation Manuals*, and other prevention documents which meet federal requirements under 33 C.F.R. 154, 33 C.F.R. 156, 40 C.F.R. 109, 40 C.F.R. 112, or the Federal Oil Pollution Act of 1990 may be submitted to satisfy plan requirements under this chapter if the department deems that such federal requirements equal or exceed those of the department, or if the plans are modified or appended to satisfy plan requirements under this chapter.
- (4) Plans which meet requirements of other states may be submitted to satisfy plan requirements under this chapter if the department deems that such state requirements equal or exceed those of the department, or if the plans are modified or appended to satisfy plan requirements under this chapter.
- (5) Prevention plans may be combined with contingency plans required by chapter 173–181 WAC.
- (6) Plans, when implemented, shall be designed to be capable of providing the best achievable protection from damages caused by the discharge of oil into the waters of the state. At a minimum, plans shall meet the criteria specified in this chapter.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–050, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–055 Plan format requirements.

- (1) Plans shall be organized in a format which provides easy access to prevention information. Plans shall be divided into a system of chapters and sections. Chapters and sections shall be numbered and identified with a system of index tabs.
- (2) Plans shall be formatted to allow replacement of chapter and appendix pages with revisions, without requiring replacement of the entire plan.
- (3) If combined with a contingency plan, the prevention plan shall be clearly separated from contingency plan elements.
- (4) Prevention plan content requirements specified in WAC 173–180D–060 are presented in suggested but not requisite order.
- (5) Computerized plans, in addition to a hard copy, may be submitted to the department.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–055, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–060 Plan content requirements.

- (1) Each plan shall contain a submittal agreement which:
 - (a) Includes the name, address, and phone number of submitting party;
 - (b) Verifies acceptance of the plan by the owner or operator of the facility by either signature of the owner or operator or signature by a person with authority to bind the corporation which owns or operates the facility;
 - (c) Commits the owner or operator of the facility to execution of the plan, and verifies that the plan holder is authorized to make appropriate expenditures in order to execute plan provisions; and
 - (d) Includes the name, location, and address of the facility, type of facility, starting date of operations, types of oil(s) handled, and oil volume capacity.
- (2) Each plan shall include a log sheet to record amendments to the plan. The log sheet shall be placed at the front of the plan. The log sheet shall provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that the department was notified of the amendment pursuant to WAC 173–180D–085, and the initials of the individual making the change. A description of the amendment and its purpose shall also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.
- (3) Each plan shall include a detailed table of contents based on chapter, section, and appendix numbers and titles, as well as tables and figures.
- (4) Each plan shall describe its purpose and scope, including but not limited to:
 - (a) The onshore facility or offshore facility operations covered by the plan;
 - (b) The relationship of the prevention plan to other oil spill plans and operation manuals held by the facility; and
 - (c) The relationship of the plan to all applicable local, state, regional, tribal, and federal government prevention plans, including the Washington State–wide Master Oil and Hazardous Substance Spill Contingency Plan.
 - (d) Information required under facility oil spill contingency plan standards in WAC 173–181–050(4); spill prevention, countermeasure, and control plan standards in 40 C.F.R.

112.4(a); or facility operations manual standards in 33 C.F.R. 154.310(1–4) may be used to address (a) of this subsection.

- (5) Each plan shall describe the procedures and time periods for updating the plan and distributing the plan and updates to appropriate parties.
- (6) Each plan shall establish that the facility is in compliance with the Federal Oil Pollution Act of 1990. Within thirty calendar days after federal deadlines for facility requirements under that act, the plan shall be updated to include any applicable evidence of compliance.
- (7) Within thirty calendar days after evidence of financial responsibility is required by rules adopted by the department pursuant to chapter 88.44 RCW, the plan shall be updated to include any applicable evidence of compliance.
- (8) Each plan shall describe the types and frequency of spill prevention training provided to personnel. Within thirty calendar days after personnel certification is required by rules adopted by the department pursuant to RCW 90.56.220, the plan shall be updated to include any applicable evidence of compliance.
- (9) Within thirty calendar days after submittal of an operations manual is required by rules adopted by the department pursuant to RCW 90.56.230, the plan shall be updated to include any applicable evidence of compliance.
- (10) Each plan shall provide evidence that the facility has an approved oil spill contingency plan or has submitted a contingency plan to the department in accordance with standards and deadlines established by chapter 173–181 WAC.
- (11) Each plan shall address the facility's alcohol and drug use awareness and treatment program for all facility personnel.
 - (a) The plan shall include at a minimum:
 - (i) Documentation of an alcohol and drug awareness program. The awareness program shall provide training and information materials to all employees on recognition of alcohol and drug abuse; treatment opportunities, including opportunities under the Alcohol and Drug Addiction Treatment and Support Act pursuant to chapter 388–40 WAC; and applicable company policies;
 - (ii) A description of the facility's existing drug and alcohol treatment programs; and
 - (iii) A description of existing provisions for the screening of supervisory and key employees for alcohol and drug abuse and related work impairment.
 - (b) Evidence of conformance with applicable federal “*Drug-Free Workplace*” guidelines or other federal or state requirements may be used to address (a) of this subsection.
- (12) Each plan shall describe the facility's existing maintenance and inspection program.
 - (a) The description shall summarize:
 - (i) Frequency and type of all regularly scheduled inspection and preventive maintenance procedures for tanks; pipelines; other key storage, transfer, or production equipment, including associated pumps, valves, and flanges; and overpressure safety devices and other spill prevention equipment;
 - (ii) Integrity testing of storage tanks and pipelines, including but not limited to frequency; pressures used (including ratio of test pressure to maximum operating pressure, and duration of pressurization); means of identifying that a leak has occurred; and measures to reduce spill risk if test material is product;

- (iii) External and internal corrosion detection and repair;
 - (iv) Damage criteria for equipment repair or replacement; and
 - (v) Any other aspect of the maintenance and inspection program.
 - (b) The plan shall include a current index of maintenance and inspection records of the storage and transfer facilities and related equipment.
 - (c) Documentation required under 40 C.F.R. 112.7(e) or 33 C.F.R. 154 Subparts C and D may be used to address elements of this subsection.
 - (d) Existing copies of the facility's maintenance and inspection records for the five-year period prior to plan submittal shall be maintained and shall be available for inspection if requested by the department. The plan shall document the use of a system to maintain such records over a five-year period for subsequent activity.
- (13) Each plan shall describe spill prevention technology currently installed and in use, including:
- (a) Tank and pipeline materials and design;
 - (b) Storage tank overflow alarms, low level alarms; tank overflow cut-off switches; automatic transfer shut-down systems; methods to alert operators; system accuracy; and tank fill margin remaining at time of alarm activation in terms of vertical distance, quantity of liquid, and time before overflow would occur at maximum pumping rate;
Documentation required under 40 C.F.R. 112.7 (e)(2)(viii) or 33 C.F.R. 154.310 (a)(12–13) may be used to address some or all of these elements;
 - (c) Leak detection systems for both active and nonactive pipeline conditions, including detection thresholds in terms of duration and percentage of pipeline flow; limitations on system performance due to normal pipeline events; and procedures for operator response to leak alarms;
Documentation required under 40 C.F.R. 112.7(e)(3) may be used to address some or all of these elements;
 - (d) Rapid pump and valve shutdown procedures, including means of ensuring that surge and over-pressure conditions do not occur; rates of valve closure; sequence and time duration (average and maximum) for entire procedure; automatic and remote control capabilities; and displays of system status for operator use;
Documentation required under 40 C.F.R. 112.7(e)(3) may be used to address some or all of these elements;
 - (e) Methods to minimize of post-shutdown residual drain-out from pipes, including criteria for locating valves; identification of all valves (including types and means of operation) that may be open during a transfer process; and any other techniques for reducing drain-out;
 - (f) Means of relieving pressure due to thermal expansion of liquid in pipes during quiescent periods;
 - (g) Secondary containment, including capacity, permeability, and material design;
Documentation required under 40 C.F.R. 112.7(e)(1) and (2)(iii–iv) may be used to address some or all of these elements;
 - (h) Internal and external corrosion control coatings and monitoring;
 - (i) Storm water and other drainage retention, treatment, and discharge systems, including

maximum storage capacities and identification of any applicable discharge permits;

Documentation required under 40 C.F.R. 112.7(e)(1) and (2)(iii and ix) may be used to address some or all of these elements; and

- (j) Criteria for suspension of operations while leak detection or other spill control systems are inoperative.

(14) Each plan shall describe measures taken to ensure facility site security, including:

- (a) Procedures to control and monitor facility access;
- (b) Facility lighting (documentation required under 33 C.F.R. 154.570 may be used to address some or all of this element);
- (c) Signage; and
- (d) Right of way identification or other measures to prevent third-party damage (documentation required under 40 C.F.R. 112.7(e)(3)(v) and (9) may be used to address some or all of this element).

(15) Each plan shall list any discharges of oil in excess of twenty-five barrels (one thousand fifty gallons) to the land or waters of the state which occurred during the five-year period prior to the plan submittal date. For each discharge, the plan shall describe:

- (a) Quantity;
- (b) Type of oil;
- (c) Geographic location;
- (d) Analysis of cause, including source(s) of discharged oil and contributing factors (e.g., third party human error, adverse weather, etc.); and
- (e) Measures taken to remedy the cause and prevent a reoccurrence;

For the period between July 1, 1987, and January 1, 1993, the facility shall provide existing information regarding (a) through (e) of this subsection for such discharges, and shall document the use of a system to record complete information for subsequent discharges.

(16) Each plan shall include a detailed and comprehensive analysis of facility spill risks based on the information required in subsections (11) through (15) of this section, and other relevant information.

(a) The risk analysis shall:

- (i) Evaluate the construction, age, corrosion, inspection and maintenance, operation, and oil spill risk of the transfer, production, and storage systems in the facility, including piping, tanks, pumps, valves, and associated equipment;
- (ii) Evaluate spill minimization and containment systems within the facility;
- (iii) Be prepared under the supervision of (and bear the seal of) a licensed professional engineer or another individual which the department has deemed to have an acceptable level of expertise.

(b) Documentation required under 40 C.F.R. 112.7(b) and (e) may be used to address some or all of the elements of this subsection.

(17) Each plan shall describe how the facility will incorporate those measures that will provide best achievable protection to address the spill risks identified in the risk analysis required in subsection (16) of this section.

- (a) Information documented pursuant to 40 C.F.R. 112.7(e) and 33 C.F.R. 154.310 may be used to address some or all of these elements of this subsection.
 - (b) Within six months after facility operation standards are adopted by rule by the department pursuant to RCW 90.56.220, the plan shall be updated to address how the facility will meet prevention standards and deadlines established by that rule.
- (18) If the prevention plan is combined with a contingency plan, the prevention plan may incorporate information required in this section by reference if that information is provided in the contingency plan.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92-15-035 (Order 91-59), § 173-180D-060, filed 7/8/92, effective 8/8/92.]

WAC 173-180D-065 Plan submittal.

- (1) Plans for onshore and offshore facilities shall be submitted to the department by January 1, 1993.
- (2) Any onshore or offshore facility that first begins operating after the deadlines stated in subsection (1) of this section shall submit a plan to the department at least sixty-five calendar days prior to the beginning of operations.
- (3) Three copies of the plan and appendices shall be delivered to:

Spill Management Section, Prevention Plan Review
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

- (4) Onshore and offshore facility plans may be submitted by:
 - (a) The facility owner or operator; or
 - (b) A primary response contractor approved by the department pursuant to WAC 173-181-090, in conformance with signature requirements under WAC 173-180D-060(1).
- (5) A single plan may be submitted for more than one facility, provided that the plan meets the requirements in this chapter for each facility listed.
- (6) The plan submitter may request that proprietary information be kept confidential under RCW 43.21A.160.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92-15-035 (Order 91-59), § 173-180D-065, filed 7/8/92, effective 8/8/92.]

WAC 173-180D-070 Plan review.

- (1) The department shall endeavor to review each plan in sixty-five calendar days. If the plan is submitted in conjunction with a contingency plan required under chapter 173-181 WAC, the department may extend the prevention plan review period an additional sixty-five calendar days. Upon receipt of a plan, the department shall evaluate promptly whether the plan is incomplete. If the department determines that a plan is incomplete, the submitter shall be

notified of deficiencies. The review period shall not begin until the department receives a complete plan.

- (2) The department shall regularly notify interested parties of any prevention plans which are under review by the department, and make plans available for review by all department programs, other state, local, tribal, and federal agencies, and the public. The department shall accept comments on the plan from any interested party during the first thirty calendar days of review by the department.
- (3) A plan shall be approved if, in addition to meeting criteria in WAC 173–180D–055 and 173–180D–060, it demonstrates that when implemented, it can:
 - (a) Provide best achievable protection from damages caused by the discharge of oil into the waters of the state;
 - (b) Minimize the likelihood that facility oil spills will occur;
 - (c) Minimize the size and impacts of those facility oil spills which do occur; and
 - (d) After the adoption of facility operation standards by rule by the department pursuant to RCW 90.56.220:
 - (i) Provide for compliance with prevention standards and deadlines established by facility operation standards adopted by rule by the department pursuant to RCW 90.56.220; and
 - (ii) Provide, to the maximum extent practicable, protection from oil spill risk factors identified in the risk analysis required by WAC 173–180D–060(16), for those risk factors not addressed by facility operation standards adopted by rule by the department pursuant to RCW 90.56.220.
- (4) When reviewing plans, the department shall, in addition to the above criteria, consider the following at a minimum:
 - (a) The volume and type of oil(s) addressed by the plan;
 - (b) The history and circumstances of prior spills by similar types of facilities, including spill reports by ecology on–scene coordinators;
 - (c) Inspection reports;
 - (d) The presence of hazards unique to the facility, such as seismic activity or production processes;
 - (e) The sensitivity and value of natural resources within the geographic area covered by the plan; and
 - (f) Any pertinent local, state, tribal, federal agency, or public comments received on the plan.
- (5) The department may approve a plan based upon an expedited review pursuant to criteria set out in this chapter, if that plan has been approved by a federal agency or other state which the department has deemed to apply approval criteria which equal or exceed those of the department.
- (6) The department shall endeavor to notify the facility owner or operator within five working days after the review is completed whether the plan has been approved.
 - (a) If the plan receives approval, the facility owner or operator shall receive a certificate of approval describing the terms of approval, including expiration dates pursuant to WAC 173–180D–085(4).

- (b) The department may conditionally approve a plan by requiring a facility owner or operator to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.
 - (i) Precautionary measures may include, but are not limited to, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours or favorable weather conditions. Precautionary measures may also include additional requirements to ensure availability of response equipment.
 - (ii) A plan holder shall have thirty calendar days after the department gives notification of conditional status to submit to the department and implement required changes, with the option for an extension at the department's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed shall lose conditional approval status.
- (c) If plan approval is denied or revoked, the facility owner or operator shall receive an explanation of the factors for disapproval and a list of deficiencies. The facility shall not continue oil storage, transfer, production, or other operations until a plan for that facility has been approved.
- (d) The department's decisions under this chapter are reviewable in superior court.
- (e) If a plan holder demonstrates an inability to comply with an approved prevention plan or otherwise fails to comply with requirements of this chapter, the department may, at its discretion:
 - (i) Place conditions on approval pursuant to (b) of this subsection; or
 - (ii) Revoke its approval pursuant to (c) of this subsection.
- (f) Approval of a plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.
- (7) The department shall prepare a manual to aid department staff responsible for plan review. This manual shall be made available to plan preparers. While the manual will be used as a tool to conduct review of a plan, the department will not be bound by the contents of the manual.
- (8) The department shall work with the office of marine safety to ensure that no duplication of regulatory responsibilities occurs in the review of prevention plans from marine facilities.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92-15-035 (Order 91-59), § 173-180D-070, filed 7/8/92, effective 8/8/92.]

WAC 173-180D-075 Inspections.

- (1) The department may verify compliance with this chapter by announced and unannounced inspections in accordance with RCW 90.48.090.
- (2) During inspections, department staff may require the plan holder to test operations of spill prevention technology installed in the facility.
- (3) The department shall endeavor to provide a completed inspection report to the facility owner and operator within thirty calendar days from the inspection date.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92-15-035 (Order 91-59), § 173-180D-075, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–080 Plan maintenance and use.

- (1) Each facility covered by the plan shall conspicuously locate copies of the plan within the facility to ensure that a copy of the plan is immediately accessible to all facility personnel involved in supervising or implementing oil handling operations.
- (2) Facilities shall ensure that all employees involved in oil transfer, production, or storage operations are familiar with the plan provisions through regular training. Orientation materials for new employees involved in oil transfer, production, or storage operations shall contain a copy of the plan.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–080, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–085 Plan update timeline.

- (1) The department shall be notified in writing as soon as possible and prior to completion of any significant change which could affect the plan. If the change will reduce the facility's ability to implement the plan, the plan holder shall also provide a schedule for the return of the plan to full implementation capability.
 - (a) A significant change includes, but is not limited to:
 - (i) A change in the owner or operator of the facility;
 - (ii) A change in the types of oil handled at the facility;
 - (iii) A five percent or greater change in the facility's oil handling capacity;
 - (iv) Noncompliance with the Federal Oil Pollution Act of 1990;
 - (v) Noncompliance with state financial responsibility requirements developed under chapter 88.44 RCW; and
 - (vi) A substantial change in oil spill prevention technology installed at the facility, or other substantial changes to facility equipment, operations, personnel procedures, or any other change, including compliance with amended or new rules adopted by the department, which substantially affects the level of risk described pursuant to WAC 173–180D–060(16).
 - (b) Changes which are not considered significant include, but are not limited to, minor variations (less than five percent) in oil handling capacity, maintenance schedules, and operating procedures, provided that none of these changes will increase the risk of a spill.
 - (c) The facility shall update the plan's list of discharges, as required by WAC 173–180D–060(15), within thirty calendar days after an oil discharge by the facility in excess of twenty-five barrels (one thousand fifty gallons).
 - (d) A facsimile will be considered written notice for the purposes of this subsection.
 - (e) Failure to notify the department of significant changes shall be considered noncompliance with this chapter and subject to provisions of WAC 173–180D–070 (6)(e).
- (2) If the department finds that, as a result of the change, the plan no longer meets approval criteria pursuant to WAC 173–180D–070, the department may, at its discretion, place conditions on approval or revoke approval in accordance with WAC 173–180D–070 (6)(e). The department may also require the plan holder to amend its plan to incorporate the change.

- (3) Within thirty calendar days of making a change to the prevention plan, the facility owner or operator shall distribute the amended page(s) of the plan to the department and other plan holders.
- (4) Plans shall be reviewed by the department at least every five years pursuant to WAC 173–180D–070. Plans shall be submitted for reapproval unless the plan holder submits a letter requesting that the department review the plan already in the department's possession. The plan holder shall submit the plan or such a letter at least sixty–five calendar days in advance of the plan expiration date.
- (5) The department may review a plan following any spill at the facility.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–085, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–090 Noncompliance with plan requirements.

- (1) Any violation of this chapter may be subject to the enforcement and penalty sanctions of RCW 90.56.300 and 90.56.310.
- (2) In addition to other penalties, the department may assess a civil penalty of up to one hundred thousand dollars against any person who violates this section. Each day that a facility or person violates this section shall be considered a separate violation.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–090, filed 7/8/92, effective 8/8/92.]

WAC 173–180D–098 Severability. If any provision of this chapter is held invalid, the remainder of the rule is not affected.

[Statutory Authority: RCW 90.56.300, 90.56.200 and 90.56.310. 92–15–035 (Order 91–59), § 173–180D–098, filed 7/8/92, effective 8/8/92.]